

**Serial No. 09/982,168****Docket No. 1349.1036****REMARKS****INTRODUCTION:**

In accordance with the foregoing, claim 1 has been canceled without prejudice or disclaimer, and claims 2, 3, 8, 11, 13-15, 37, and 38 have been amended. No new matter is being presented, and approval and entry of the foregoing amendments are respectfully requested.

Claims 2-22 and 24-40 are pending and under consideration. Reconsideration is requested.

**ENTRY OF AMENDMENT UNDER 37 C.F.R. §1.116:**

Applicants request entry of this Rule 116 Response because:

(1) the amendments of claims 2, 3, 8, 11, 13-15, 37, and 38 should not entail any further search by the Examiner since no new features are being added or no new issues are being raised; and

(2) the amendments do not significantly alter the scope of the claims and place the application at least into a better form for purposes of appeal. No new features or new issues are being raised.

The Manual of Patent Examining Procedures sets forth in Section 714.12 that "any amendment that would place the case either in condition for allowance or in better form for appeal may be entered." Moreover, Section 714.13 sets forth that "the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

**Serial No. 09/982,168****Docket No. 1349.1036****REJECTION UNDER 35 U.S.C. §102:**

In the Office Action at pages 2-3, the Examiner rejects claims 12 and 37 under 35 U.S.C. §102 in view of Ichikawa et al. (Japanese Patent Publication No. 60-182086). This rejection is respectfully traversed and reconsideration is requested.

As a point of clarification, claim 37 has been amended to depend from allowed claim 16. As such, it is respectfully submitted that claim 37 is deemed patentable due at least to its depending from claim 16.

Among other features, the Examiner asserts that FIG. 2 inherently shows that a weight 12 disposed at a point which farthest from a geometric center of a figure defined by legs 7. By way of review, Ichikawa et al. shows a profile of a base 6 supported by the legs 7 in FIGs. 1 and 3. From the profile, there appear to be at least two legs 7. However, while the base 6 would require at least three legs 7 to support the base 6, there is no disclosure of just how many legs 7 are used such that Ichikawa et al. does not teach a particular configuration of legs 7, or that the configuration of legs 7 relates to a position of the weight 12. Moreover, as shown in FIG. 3, Ichikawa et al. shows that the weight 12 is positioned at a distance I measured from one of the legs 7 closest to an overhang 11. Thus, since Ichikawa et al. does not suggest a particular configuration of the legs 7 and instead teaches locating the weight 12 based on a distance I to one of the legs 7, and the Examiner has not provided evidence that any such configuration of Ichikawa et al. necessarily results in the features of claim 12.

Generally, where the Examiner relies upon the theory of inherency, the Examiner is required to provide extrinsic evidence that the features are necessarily present in the reference. As noted in MPEP 2112, "[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic." (emphasis in original). Since the Examiner has not provided evidence that the device shown in FIG. 2 necessarily places the weight 12 in a location based upon a geographic center of a figure defined by the legs 7 as opposed to a distance from one of the legs 7 as actually disclosed, it is

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respectfully submitted that the Examiner has not provided sufficient evidence to rely on Ichikawa et al. inherently disclosing such features as set forth in the Office Action. Therefore, it is respectfully submitted that Ichikawa et al. does not disclose or suggest at least that "said mass body is disposed at a predetermined place on said deck plate that has a largest vibration shift from a geometrical center of the figure defined by the supporting points" as recited in claim 12.

On pages 3-4 of the Office Action, the Examiner rejects claims 1, 8, 11, 14, and 37 under 35 U.S.C. §102 in view of Daimaru (Japanese Patent Publication No. 06-129488). The rejection is traversed, and reconsideration is respectfully requested.

As a point of clarification, claim 1 has been cancelled without prejudice or disclaimer, and claims 8, 11, 14, and 37 have been amended to depend from corresponding claims 2, 3 and 16. Since the Examiner indicates on page 4 of the Office Action that claims 2, 3, and 16 contain allowable subject matter, it is respectfully submitted that claims 8, 11, 14, and 37 are deemed patentable due at least to their depending from corresponding claims 2, 3, and 16.

#### **STATUS OF CLAIMS NOT REJECTED IN OFFICE ACTION**

On page 4 of the Office Action, the Examiner objects to claims 2, 3, 9, 10, 15, and 38 as depending from rejected claims, and allows claims 4-7, 13, 16-22, 24-36, 39, and 40. Claims 2, 3 and 15 have been made independent and have not been amended to narrow the scope of the claims. Objected to claim 38 has been amended to depend from allowed claim 16. As such, it is respectfully requested that the Examiner reconsider and withdraw the objection to the claims.

#### **CONCLUSION:**

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for

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allowance which action is earnestly solicited. At a minimum, this Amendment should be entered at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration by the Board.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

If there are any additional fees associated with the filing of this Response, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

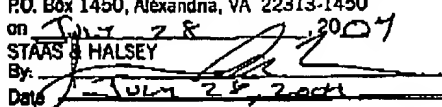
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